Supreme Court, U.S.
FILED
JUN 25 1985
ALEXANDER L. STEVAS
CLERK

85- 89

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

CHARLES A. MEEKER, PETITIONER;

Vs

HUMAN SERVICES DEPARTMENT OF NEW MEXICO;
Attorney Elaine Watson; Mz Vickey King;
John Kaleejata; Mrs Michelle O' Shielda;
ATTORNEY DEBORAH GROUT;
Security Officer Jose M. Britton;
Mrs Thelma Lyle;
Mr John Kercher and wife Helen Kercher;

RESPONDENTS;

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT FOR THE STATE OF NEW MEXICO

CHARLES A. MEEKER, PRO-SE;
2605 Virginia St.N.E.
Albuquerque,New Mex.,
Zip (87110), Telephone
299-6406, Pro-Se.

QUESTIONS PRESENTED FOR REVIEW, RULE 21-a;

-1-: May a Trial Judge resort to choosing false facts, to make an Opinion seem just, for purpose of protecting two attorney def -endants inorder to make his dismissal se -em reasonable and fair; when Opinion was not fair and/or just in any way whatever?

-2- Do attorney Defendants have a right to be accorded favoritism by trial judges when sued civilly or rights given others?

-3- Is it proper for a Plaintiff to be surreptitiously denied the right to a jury trial by accepting false facts to base Opinions on, by both Judge Garcia, as well as by all members of the Supreme Court of New Mexico?

-4- Is it not a violation of their oaths of office for judges to turn a trial into a sham, a farce, just to protect attorneys who are defendants? This invariably happens and Petitioner could not find any instance where this did not occur.

-5- Do judges retain their rights to imm
-unities when resorting to using false facts
-6- Is it proper to deny a Plaintiff-Pet.
itioner Due Process under the 14th Amend-
ment, just because he dares to sue attorneys
who have civilly wronged him?
-7- Has Petitioners Civil and Human Rights
been violated where wrongs such as were ple
-aded on pages (30-38 R.P)? (Civil R Statue
of 1964, 1971, and 1985)
-8- Is it proper for judges to always make
fun of, and persecute all Plaintiffs who
appear Pro-Se; as happened to this Petitioner
and in particular where he could not hire
an attorney for reasons stated in this case?
-9- Is it not a reversable error for Petit
ioner to have been forced to appear Pro-Se
in view of the unwritten law that no lawyer
will assist you if you make lawyers defen-
dants?
-10- Is this legal conduct under the Four
-teenth Amendment, U.S. Constitution, Sect
(1) and (4)?

T A B L E O F C O N T E N T S:

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TABLE OF AUTHORITIES: RULE 34-4 b;

In this case to date, the gross viola -tions of all Human, Civil, and Constitutional rights, men have fought and died for so many thousands of years until we might properly quote the Ten Commandments; and/or the ancient Hammurabi Code of 1800 B.C. as all the essential authority needed, for the reversal of this monstrosity, and as a sound reason to jail the judges and some of the attorneys involved in ths horrible experience. However the following legal author -ities are presented as well:

(1): Fourteenth Amendment of the Con -stitution of the U.S. Sections, (1) & (4).

(2): Civil Rights Statue of 1964; 1971; and 1985, and as further outlined under (a) to (g), below:

(a): Denial of a Fair & Impartial Trial;

(b): Denial of access to our Courts for an impartial resolvment of issues by a jury.

(c): Violation of the Privacy of Peti -tioner and his family many many times;

(d): Wilful use of perjury, to gain Proable Cause, and which would have been an impossibility had perjury not been used.

(e): Attempting to bribe witnesses

(f): Denial of the right of Petitioner to try and protect and educate his four daughters.

(g): A denial of the right to life, liberty, and the pursuit of happiness by coming on as 'BIG SISTER', to take over & to run the lives of Petitioner & his family, without any justifiable reason just to throw their weight around, and feel important.

(3): Review Law Brief, found in Record Proper on pages 42 to 46; and in particular the many cases cited under the Sub-Head Numbers in the many authorities quoted. Several Attorney friends assisted Petitioner in preparing this Law Brief which is believed to be good.

LIST OF PARTIES & RULE NO 21-(b): THEIR ATTORNEYS OF RECORD.

The parties (Defendants-Appellees) are all listed on the front cover of this Writ. The names and addresses of attorneys representing these Appellees are:

(1): Representing Human Services Dept; WATSON; O'Shields; Kalejta; and King are:

CIVEROLO-HANSEN-WOLFE: 219 Central Avenue, N.W. Suite 400; Telephone 505-842-8255; Albuquerque, N.M. (87103.

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(2): ATTORNEY DEBORAH GROUT REPRESENTED BY:

Ussery and Parrish; 501 Tijeras,N.W.; Telephone NO; 505-247-0145; Albuquerque,NM (87103)

SECURITY OFFICER JOSE M. BRITTON, REPRESEN TED BY:

POOLE-TINNIN-AND MARTIN;
219 Central N.W. Suite 700
Telephone 505-842-8155,
Albuquerque, N.M. (87103)

MRS THELMA LYLE, AS REPRESENTED BY:

GALLAGER AND CASSADOS:219 CENTRAL, N.W.: Suite 528
Telephone 505-243-7848,Albuquerque.

MR AND MRS JOHN KERCHER, REPRESENTED BY:

Montgomery & Andrews;500 Copper Ave,NW Suite 200; Tel 505-242-9677,Albuquerque.

OPINIONS INVOLVED IN THIS CASE: RULE 21-d;

(A): Opinion of Supreme Court,N.Mex; (See Appendix);

(B): Memorandum Opinion of Judge Garcia (See Record Proper pages, 79 to 91,

JURISDICTIONAL GROUNDS: RULE 21-e;

(1) The final Ruling of Supreme Court of New Mexico,(See Appendix).

(2): Notice of Appeal on eight grounds (Also see Appendix)

(3): Table of Authorities quoted on page,(4) to (5) this Writ.

(4): Gross Violations of Sections (1) and (4) of the Fourteenth Amendment U.S. Constitution.

(5): Gross Violation of both Civil and Human Rights under Civil Rights Act of 1964; 1971; and 1985.

CONSTITUTIONAL GROUNDS INVOLVED. Rule 21-f:

See page (1);(2); (4) and (5) of this Writ. Also see Law Brief pages 42 to 46 of Record Proper. In particular study the many case references cited in this Law Brief.

CONCISE STATEMENT OF THIS CASE: RULE 21-g;

With the absolute mess the Defense attorneys have been permitted, to use both by Judge Garcia, as well as the Justices of the S.C. of N. Mexico, Petitioner doubts that even Chief Justice Berger could be concise and succinct, if he were the one trying to write this part of this Writ.

Almost two years time has elapsed, where every single facit of the proceedings to date, has been of the quality of an Appendectomy performed by a Skid-Row Bum who was recovering from a ten day drunk and while using a Tomahawk for a scalpel.

Confuse and conquer is an old adage, and this has been used by all attorneys and judges involved to this point in their wild illegal efforts to protect the two attorney defendants, involved in this case, For this Honorable Court to gain even the remotest idea of what has taken place, it is essential that the Court read and fully grasp and — understand the following page numbers in the

RECORD PROPER. (24-28; 30-46; 63-69;74-79. In addition the Brief In Chief Petitioner submitted to Tenth Circuit Court of Appeals, (Companion Case) and which is hereby incor-porated as though rewritten in full here.

There have been four PHASES to this problem, and these for clarity reasons will be separately discussed below:

PHASE ONE:

Petitioner was charged with a criminal Act of having his four minor daughters rub vaseline on his penis while all four daughters were required to watch. Within just a few hours of the beginning of the investigation, Defendants involved were fully aware of the fact they had no case what so ever; and that Petitioner had not done the act he was charged with having done. In fact Defen-dants King and Britton even acknowledged this in their police report but stated in writing that they were none the less going ahead and attempt to convict Petitioner of an act he was not guilty of. Defendants

(Attorneys Watson & Grout then knowingly aided and abetted named parties to come into Childrens Court, and intentionally use per jury both oral and written, to gain Pro -able Cause a thing that would have been impossible had these Defendants not perfe -cted these criminal Acts.(See pages 30-38 in Record Proper.

Petitioner, over six months time had his privacy violated both locally as well as in the Philippines, and in numerous Government Offices. Fortunately Petitioner's record is spotlessly clean. All the wrongs listed on the Notice of Appeal ,were done to Petitioner,(pages 30 to 38 R.P.), and the case was dismissed against Petitioner by Judge Brown where he blasted these fraud artists, all of which is on tapes of the proceedings and offered to Judges below. The primary wrongs done to Petitioner are listed on page (37) of Record Proper, and this is one of the most disgraceful cases possible to outline.

PHASE TWO OF CASE:

Petitioner sued named Defendants in the Santa Fe,(NM) County District Court because it was essential to go to the Jurisdiction of Human Service Department,(State of NM), Judge Garcia handled case see pages 79-91 in Record Proper. He turned the case into a sham and a farce to protect the two lawyer Defendants, from start to finish; and he to make his Memorandum Opinion seem just and reasonable he intentionally chose false facts on which he b sed this Opinion,(79-91) and this after he had this called to his attention many times.(63-67. 30-38 of Record Proper.

To accomplish this Judge Garcia accepted as fact everything Defendants Attorneys said, and ignored all of Petitioners Affidavits and pleadings. Thus he assumed the duties of the jury to throw this case to Defendants.

Petitioner has acted in every capacity involving Military Courts . He has jailed many, and if any military judge had done

even a 1/100 part of the crimes resorted t to by judges here, we would have jailed him and thrown the key away.

Petitioner appears unwillingly in a Pro-Se capacity as outlined above. You can not employ an attorney if there are Attorney Defendants, and this in itself is in viola -tion of all rules of decency and fair play as well as all Constitutional and Civil Rights.

Appellants own attorney advised him everything that has happened to this point and further advised that even if Petitioner gets case to trial, the trial judge will just dish out more of the same thing.

Justice Cardoza was a former teacher of Petitioner, and he once said we have nothing to rejoice about over the way most trials are conducted, and it was he who described the average trial as an Appendectomy by Tommahawk. Justice Cardoza would turn over in his grave if he knew what has happened to this point in this case.

So far in this case Petitioner has never had a hearing,(See pages 30-38) R.P. This case is a major disgrace to the legal system and what Courts allow lawyers and judges to get away with, We have no Consti -tutional Rights whatever except what some misbehaving judge wishes to grant you. Indeed we have nothing to rejoice about today.This class of Operation by Tomahawk is common in New Mexico, and elsewhere. If this farce is allowed to stand, we might as well scrap the US Constitution.

Also if nothing is done to punish these Judges who violate their oaths so flagaren -tly, these condoned and commonly resorted to crimes will greatly increase rather than diminish. Many T.V. Shows have called att-ention to these of late, and Governor Lamb of Colorado, on the Sixty Minute Program. blasted our legal system even to a greater degree than has this Petitioner. It is time that something is done to stop these crimes.

PHASE THREE: (Civil Rights Violations):

Appellant sued the same defendants for violating his Federal Civil Rights under the Fourteenth Amendment, Sections(1) & (4). That case is still pending. Take Judicial Notice, however, that all similar cases, and there are hundreds through the US that so long as you do not sue the attorneys who generally cause the problems, that you stay in Court; and if you do make lawyers Defendants you are always treated as Petitioner has been dealt with to this point of time.

The Brief In Chief filed with Tenth Circuit in Denver very clearly describes issues and what has happened. It should be read,(Copies already sent this Court).

PHASE FOUR: (This attempt to gain this Writ)

STAGE IN CASE WHERE CONSTITUTIONAL ISSUES WERE RAISED. (Rule 21-h.

See pages 24-28' 30-41; 63-77; in the Record Proper of this appeal. Also study the lengthy Law Brief,42-46 Record Proper. Also Read B. in Chief submitted Tenth Circuit.

A R G U M E N T S

RULE 21-i;

There were eight points on which this Petition was based. Each point will be argued separately. (See Appendix for pts. But note that S.C.N.M. hid their real reason,(protecting lawyer defendants) and accepted absolute falsehoods submitted by opposing attorneys as facts, when there is not a shread of fact or evidence available to accept what their motions said. But the choosing of false facts to base an Opinion on is 'OLD HAT' when judges wish to throw a case for whatever reason. In fact, a few years ago a young attorney quit his job as an assistant to one of the S.C.N.M. judges and did so for many of same reasons Petitioner has outlined here. And that young man is lucky for usually when such crimes are disclosed as being practiced by a judge, an attorney is disbarred for saying it, irresp-ctive of whether it be true or false.

In addition petitioners appearing Pro-Se are

invariably required to comply with rules ten times as accurately as are practicing attorneys, and this is far more likely if one attempts, as here, to sue attorneys and which sets in motion the efforts to have all charges against all lawyers dismissed irrespective of what has been pleaded agai-inst them.(Remember, no one is ever allowed to stay in Court if he sues an attorney).

The fact that this is universally true is reason enough to make all dismissals, where attorneys are Defendants, suspect.

APPEAL POINTS (1-2)

(1) Denial of a Jury Resolvment;

(2):Choosing false facts to base Opinions on,

For centuries those operating the Cou-rts have been attempting to resolve all issues by a Judge rather than by juries. Several years ago this Court put to rest this particular problem. One of cases chosen was a case the Appellant brought. Since that time those seeking to do away with the need for a jury have developed new methods

This new method has been followed exactly to this point in this case through Defenda -ints Motions to dismiss based on absolute falsehood claims; and then followed by Jud -ges accepting these false claims and then basing their fraudulent Opinions on this to make Opinions seem just and reasonable.

This method sidesteps the need for a jury resolvment and eliminates ones right to a jury trial. If the Supreme Court US does not accept this Writ, this new method of evading Jury resolvment of facts will be aperfected.

APPEAL POINT (3)

(1): Misbehavior of Judge Garcia, by allowing lawyers to present perjury to gain Proable Cause; as well as a brazen attempt to bribe witnesses.

Just so long as the S.C.U.S. allows such frauds to continue the problem will certainly not come to an end. It is time we face realities, and to make the Judicial process once again conform to US Constitution.

APPEAL POINT (4)

(1): It was error of the S.C.N.M. not to have ruled on the many charges presented to that Court on pages 37, Record Proper;

The many wrongs done to Petitioner are clearly covered in Affidavits presented and outlined on pages 30 to 38. These wrongs werepresented to S.C.N.M. and were completely ignored. They sat there like a bunch of BOOBS not having the wildest notion what was being presented to them or facts they were duty bound to resolve. If one could show the S.C.U.S. the blank indifferent stares in their eyes, the complete indifference to its duties, it is believed that this Court would severely punish the crimes that they perfected. Why even have a trial if this is the best justice available. Of course all who were present knew the real reason was to protect the lawyer Defendants, and this type of farce is the reason no one can employ an attorney if he sues another lawyer.

APPEAL POINT (5): MOTIONING PETITIONER OUT OF COURT.

Since this has already been argued no more arguments will be presented.

APPEAL POINT (6): EYESIGHT OF PETITIONER.

Petitioner because of being 80 years of age is 3/4 blind. The S.C.N.M. was advi -sed of this and further that he could not employ a lawyer due to fact that there were Defendant attorneys involved. It was serious error not to have seen that Petitioner had an attorney, for it is almost impossible for him to prosecute this case so that justice can be effected.

APPEAL POINT (7):

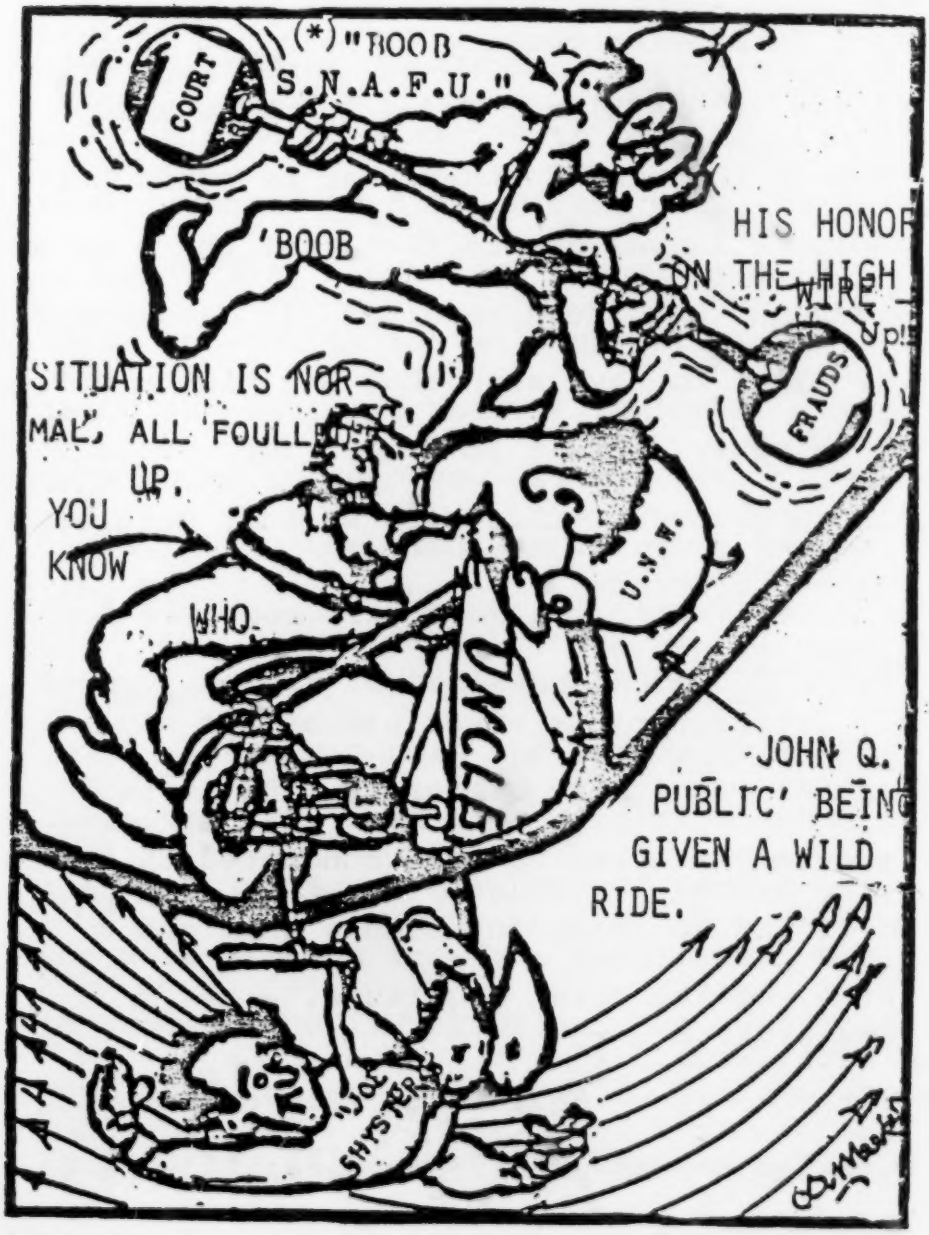
(1) Petitioner has never had a fair and impartial resolvment of issues, and it is a reverseable error to have conducted this case so it has to thispoint been a sham and a farce. of the first magnitude.

APPEAL POINT (8):

Failure to rule on points appealed on was error.(See pages 114-116 of Record Proper.

BEST AVAILABLE COPY

One picture is worth a thousand words. With this in mind Petitioner drew a cartoon that depicts just what has happened to him in this OPERATION BY TOMAHAWK THAT HAS SO FAR BEEN PERFECTED AGAINST HIM.



A P P E N D I X

FIRST JUDICIAL DISTRICT, STATE OF N.M. SANTA FE COUNTY:

CHARLES A. MEEKER, PLAINTIFF
VS DATED 10/24/84:
STATE OF NEW MEXICO, ET AL DEFENDANTS;

MEMORANDUM OPINION. S.F.83-2267,

This matter came before the court on follow -ing motions for summary adjudication of claims On May 8,1984 defendants Helen Kercher & John Kercher have filed motions for summary judgments on the pleadings.. On May 29,1984 defendants, State of N.M., & Human Services Department, John Jalejta, Mz Vickey King, Mz Kathy Surette, Mz Mic -helle Roumpf, (O'Shields), & Elane Watson have filed motion to dismiss on the basis that plain -tiffs allegations are barred by the N.M. Torts Claims Act. On Aug 3,1984 defendants Bea Poe, Ted James, Charles Lefkofsky & Jose Britton fil -ed a motion for judgment on the pleadings & summary judgment. On Aug 28,1984 defendant The -lma Lyle filed her motion for seeking summ- pleadisposition of this case.

All motions refered to above have been filed in accordance with Rule (13) of the Revised Rules of Proceedure applicable to the First Jud -icial District. Further the Motions have been

accompanied by affidavits to support the motions. Various responses & pleadings in opposition to the motions have been filed by plaintiff. Pursuant to local rules of proceedure, the court determines that oral argument is not necessary, & that these matters may be disposed of based on pleadings and briefs. (+ See Plaintiffs response, at end of this Memorandum Opinion)

Summary Judgment is proper when pleadings & evidence is form of depositions, answers to interrogatories, admissions, affidavits & documents attach to affidavits show that there is no genuine issue of material facts and that moving party is entitled to summary judgment as a matter of law. Summary judgment may also be appropriate whwn facts themselves are not in dispute & only question for determination is the legal efficacy of such facts or where undisputed facts will support a judgment as a matter of law even though there remains considerable dispute over immaterial issues.

In considering the motion for summary judgment the burden rests on the moving party to demonstrate to the court that there is no triable

issue of fact.(TINLEY V DAVIS 94 NM 296, P2d 1215,(1980). Once a moving party for a summary judgment has made out a Prima Facie,showing,the burden shifts to the party opposing the motion to demonstrate the existance of triable issue. Party opposing summary judgment is favored procedurally.(Fisher v Mascarenas,93 NM 199,598 P2d 1159,(1979). While favored proceurally,that party can not stand idly by and rely solely on allegations contained ina complaint or upon arguments or contentions to defeat the Motion if a Prima Facie case has been made.(Oschwald vs Christie,95 NM 251, 620 P 2d 1276.

Summary Judgment is a remedy to be employed with great caution and should not be used as a substitute for a trial on the merits. Nevertheless summary judgment provides a means of penetrating the allegations of complaint to determine whether, despite contentions of formal pleading,there actually exists justiciable claim. The NM Supreme Court stated in Goodman v Brock, 83 NM 789, 498 P2d 676,(1972):

"The procedures provided by Rule 56... serve a worthwhile purpose in disposing of groundless claims, or claims that can not be proved, with-

out putting the parties in court through troub -le and expense of full blown trials of claims."

Motions to dismiss or motions for summary judgments filed by defendants Kercher. Defendants Helen & John Kercher have filed motions for judgments and/or motions for summary judgments. In support of their motions, defendants have appended affidavits by John & Helen Kercher ,

Count(1) of Plaintiffs complaint alleges that all defendants committed various wrongs against Plaintiff. Count(2), alleges that all defendan -ts participated in the reporting of suspected incidents of child abuse and assisted Human Ser -vices in its investigation of allegations.Count (6) of complaint alleges that John & Helen Kercher, negligently, & maliciously reported incidences of child abuse to department of Human Services. Count (24) of complaint alleges that Mr Kercher spread a rumor about plaintiff being arrested and jailed by police, No further allegations appear in the complaint against defendants Kerchers.

Affidavits submitted by defendants indica -te that defendant Helen Kercher in good faith

reported suspected incidents of child abuse or neglect by plaintiff of his four children to the Albuquerque Social Services Office, of Human Services Department. Defendant indicates that at no time did she communicate any statement to any person concerning person being arrested, taken away by police or jailed.

Simiilarly John Kercher testifies that at no time did he participate in the reporting, investigation or proceedings concerning alleged inci-dents of child abuse or neglect by plaintiff. Further he did not communicate to any one, that plaintiff had been arrested, taken away or jailed

In support of their motion for summary judgment, defendants cite a statutory responsibility contained in 30-1-15, (a) NMSA (1978), which provides that it is the duty of any one suspecting child abuse or neglect to report the matter to the Human Services Department in county where child resides. Further 32-1-16, (b) NMSA 1978 pro-vides that any one reporting an instance of alleged child neglect or abuse or participates in a judicial proceeding arising out of the fil-ing of report shall be immune from civil liability

unless the person acted with bad faith or malicious purpose. (+SEE COMMENTS AT END OF THIS)

The affidavit submitted by moving parties indic indicate an absence of bad faith or malicious purpose,a further, indicate compliance with Statutory requirements cited above. With this Pri -mafacie showing,the burden shifts to Plaintiff to demonstrate the existance of a material issue

In response to motion,Plaintiff filed a mul -ti page response replete with hearsay conclus -ory statements,arguments & accusations. This pleading is contrary to courts directives of Feb 23;Mar 20, May 10, 1984 attached hereto as exhibits (a),(b) & (c). The court determines that the response consists of arguments & cont -ention but fails to raise a material issue of fact by way of evidence. Such being the case the court determines that Plaintiff has failed to comeforth with evidence to establish existenc of a material issue & as to defendants Kercher, the motion for summary judgment and judgment on pl-adings is well taken & same granted.

Motions to dismiss filed by defendants State of NM & Human Services Dept,John Kalejta,Mz VICKY

King,Mz Kathy Surette,MZ Michelle Roumpf, & Elaine Watson.(See pages 79 to 90 in Record Proper)

The aforlisted State Defendants seek dismissal of complaint on basis that allegations against these defendants sound in tort,negligence fraud,malicious prosecution,slander, and invas-ion of privacy. Defendants assert that on the face of complaint,the defendants are immune fr-on suit under applicable provisions of NM Tort Claims Act.

In 1975,the NM Supreme Court abolished the doctrine of soverneign immunity as applied to State & its political subdivisions, & allowed suits to be filed against State.(Hicks V State 88 NM 544 P2d 1153 1975. In response, the NM Legislature reinstated sovern immunity by enact-ing the Torts Claims Act, & further declared that governmental entities and public employees would only be liable for acts or omissions with-in the limitations of that act.Sect 41-4-2NMSA 1978. The Torts Claims Act provides for only (8) specific exceptions to sovereign immunity esta-lished by Act. These exceptions are as follows:

(1): Operation or maintenance of motor vehicles aircraft, and water craft.

(2): Operation or maintenance of any building public park,machinery,equipment or furnis hings.
(3): Operation of airports;
(4): Operation of certain public utilities and services;
(5): The Operation of certain medical facilities.
(6): Health care services;
(7): The maintainence & existance of highways streets & certain appurtenances.
(8): Certain unlawful acts of law enforcement officers.

(+) See Comments below,at end):

Unless the Plaintiff's claims arise from one of the exceptions to sovereign immunity,the claims are barred under the Torts Claims Act. A comparison od claims with specific exemptions of Torts Claims Act indicates there is no waiver of immunity provided in the NM Torts Claims Act for any of the alleged torts in the Plaintiff's Complaint., and accordingly those claims are to be dismissed as not cognizable.

Additionally defendant Elaine Watson claims absolute immunity on basis her involvment in case has been in her capacity as a prosecutor. As such she is absolutely immune from a Civil Rights or Torts Claims suit for damages. (Imbler v Packman, 424 US 409, L.ed 1976.)

The Court determines that State Defendants

should submit an order granting the relief re-quested.

Motions for judgment on pleadings and/or summary judgment filed by defendants Bea Etta Poe Charles Lefkofsky, Ted James, & Jose Britton.

The above named Albuquerque Public School defendants have requested a summary dismissal of claim against them on three basis:

(1) Defendants all assert entitlement to protection under Torts Claims Act;
(2) Defendants assert entitlement to immunity provisions pursuant to Childrens Code, 32-1 16 (b);
(3): Defendants argue that plaintiff has failed to allege facts which support any cognizable claims as against Defendants.

The Court's analysis under the Torts Claims Act is applicable to these public employees. The Affidavits submitted by moving parties indicate that at all material times, they were acting in the scope of their duties as public employees, and accordingly, claims against them are barred under aforecited provisions of NM T.C.Act, supra

Additionally Plaintiff has failed to allege any claim against defendant Poe. Defendant is not mentioned anywhere in body of complaint, with exception of general allegations as again-st all defendants. General conclusory allegations are insufficient as a matter of pleading.

Plaintiff contends that defendants Lefkofsky and acted fraudulently and maliciously during inve -stigation. Such broad allegations do not com- port with pleading requirements of (9-b) NMRCP Finally,defendants Lefkofsky & James filled Af -fidavits to effect they acted in good faith & without malice during the abuse & neglect inve- stigations. Defendants have made a Prima Facie showing of their entitlement to immunities und -er 32-1-16-(b) of NM Childrens Code. With this showing, it is incumbent on Plaintiff to come forth with evidence to show existance of material -al issue of fact. Plaintiff has failed to do.

Finally,Security Officer Britton claims im- munity under provisions of NM T.C.Act & Child- rens Code. As a public employee Officer Brittons Acts are subject to the protection of Torts C.A. unless immunity is waived. Plaintiffs allegati- ons do not come within the exceptions of 41-4- 2,NM S.A.,and therefore motion to dismiss is well taken.The Court determines that claims for summary judgment are well taken and same will be granted. Court directs counsel for Defendants to prepare an order granting relief requested.

Thelma Lyle's motion for summary judgment. Defendant Lyle requests a summary dismissal of complaint on basis there is no genuine issue as to any material fact in matter and that defendant Lyle is entitled to summary disposition.

Mr Meekers Complaint alleges that Mrs Lyle maliciously slandered Plaintiff by spreading rumors about him in the community.Defendant seeks dismissal of claim on basis that there is no evidence that she ever published or made any statements to third persons. And finally,that any statements attributed to her by Plaintiff are,not defmatory as a matter of law.

Pursuant to NM Law,a Plaintiff must establish that a defendant made or published a defamatory statement to another party inorder to maintain an action for defamation or liable. (Poorbaugh v Mullen, 99 NM 11, 653-P2d 511,(82) While Plaintiff makes allegation in Complaint that defendant,(let her tongue wag) and that an allege lie was,(all over the neighborhood, Plaintiff has failed to submit evidence to substantiate allwgation. In his deposition Plaintiff admits he never heard any neighbor say anything derogatory about him,but rather basis his allegations,

on the fact that he had heard Mrs Lyle engage in gossip on prior occaisions and concludes she did so on the instance in question.

Comments attributed to Mrs Lyle on pages 33,37,38,39,40,50, of deposition do not rise to defimation as a matter of law.

Relying on Plaintiffs own deposition and discovery undertaken, defendant Lyle has demon -strated an absence of material fact.

Plaintiff has been unable to come forward with evidence which substantiates Plaintiffs claim that Mrs Lyle spread rumors concerning vaseline incident. While Plaintiff contends rumors were spread it is his unsupported belief that rumors were spread by Mrs Lyle.

Court determines that Plaintiff has failed to establish existance of material issue of fact, and claims against Mrs Lyle whould be dismissed. Additionally Court determines that statements which have been attributed to Mrs Lyle do not constitute libelous or defamatory statements on their face. (Marchindo v Brown 98 NM 394,649 P2d 462 1982. Marchindo vs Trib -une 08NM 282. 648 P2nd 321, (1982).

Order

The Court directs that Counsel prepare/gra-

-nting relief requested by way of Motion.

LORENZO GARCIA
DIST JUDGE.

DATED SIGNED ON: 24 Sept,1984.

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(+) After Plaintiff Meeker received this Memorandum Opinion just written above, he immediately filed a Motion for Reconsideration dated, in September/84 on the grounds as already outlined on pages (15) to (19) covering eight points on which this appeal is based. These ei-ght points points should be reviewed at this point by whoever is attempting to determine if this Writ should be granted for the eight poin-ts negates most of what Judge Garcia has claimed.

In other words Plaintiff was never allowed an opportunity to present any evidence, was continuelly baulled out by Judge Garcias gross-ly unfair and vintictive letter Orders because he dared sue the two attorneys involved here. Also this Appeal, if not granted will continue the mockrty always developed whenever any party attempts to sue any lawyer, and is why no attor-new will ever assist you if you attempt to sue an attorney.

This facet of the law along with the gross mistreatment of doctors, who can not do even a 1/100 the part of what attorneys do so far as irresponsible court behavior is concerned are two of the primary points why no one has the slightest faith in our Judicial System. Governor Lamb, on the TV Program put it far stronger and better than Plaintiff has outlined this very disgraceful situation.

Judge Garcia has taken over the right to have facts determined by a jury, and committed absolute criminal behavior, that if any othdr profession did likewise, would be jailed. True Judge Garcia succinctly outlines law, but in doing so has assumed false facts to make his decision seem just & fair when it was instead criminally motivated to protect lawyers involved.

STATE OF NM, IN DISTRICT COURT, COUNTY SANTA FE.

CHARLES A. MEEKER PLAINTIFF, DATED Oct 24/84
VS SF-83-
STATE OF NEW MEXICO, ET AL, DEFENDANTS 2267.(C)

ORDER DENYING MOTION FOR RECONSIDERATION.

This matter came before Court on Plaintiff Motion for reconsideration. Persuant to Rule 13 od R.R.OF Procedure applicable to First Judici -al District, Court determines that Oral argument is not necessary.

Court has reviewed Motion and determines it is not well taken, and accordingly will be denied.

LORENZO F. GARCIA, DISTRICT JUDGE
DATED OCT 24,1984.

(+) Plaintiff appealed this final ruling immediately(November 14,1984) on eight points found on pages 15 to 19 this Writ, Record P pages 114-to 117. This will not be repeated for all are outlined and argued on pages 15 to 19 this Writ.

The New Mexico Court of Appeals made no ruling but transfered appeal directly to S.C.NM who on March 27,1985 made its final ruling and from said ruling Plaintiff seeks this Writ to the Supreme Court of the United States. This Writ was first filed with S.C.U.S. on April 4, 1985, all dates being well within proper time limits.

IN THE SUPREME COURT STATE OF N.M. WEDNESDAY, MARCH 27, 1985 case no: 15,802.

CHARLES A. MEEKER PLAINTIFF-APPELLANT;
VS
STATE OF N.M. et al, DEFENDANTS APPELLEES

CASE NO: 15,802, S.C. N.Mexico, Dated 3/27/85

This matter coming on for consideration by the Court upon Motions to Dismiss, & Court having considered said Motions, & having heard oral arguments. and now being sufficiently advised:

NOW THEREFORE IT IS ORDERED, that Motions to dismiss the appeal herein are hereby granted and above appeal is hereby dismissed.

IT IS FURTHER ORDERED, that motion contained in the response filed by Appellant, requting that Judge Lorenzo Garcia be brought before a Grand Jury, is hereby denied.

ATTEST A TRUE COPY BY:
DATED 3/27/85. ROSE MARIE ALDERETE,
CLERK OF S.C.N.MEX.

(+): COMMENTS ON ABOVE FINAL RULING S.C.N.M.

Facts stated by S.C.N.Mex are basically false, for none of the three judges hearing this appeal had the wildest notion of what had been presented in writing to them in The Brief In Chief he first submitted to N.M. Court of Appeals, and forwared to S.C.N.M. For resolvment because he had dared charged two judges with committing Criminal Acts.
One could look in each of their eyes, and see only blank stares of stupidity and indifference All any of them seemed concerned with was the fact lawyers and a judge had been charged, and the need to prevent truth from coming forth. If cases like this are allowed to become law we will just further blacken the name of our Judicial processes. Charles A Meeker

 THE END OF THIS WRIT.